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June 3, 2010

**BY ECF FILING AND FIRST CLASS MAIL**

Honorable Arthur D. Spatt, USDJ  
United States District Court  
For the Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722-9014

Honorable A. Kathleen Tomlinson, USMJ  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722-9014

Re: Gunther v. Capital One, N.A., Civil Action No. 09-2966-ADS-AKT

Dear Judges Spatt and Tomlinson:

Counsel for both parties are pleased to report that they have agreed to a settlement in principle of this lawsuit as a class action. Both parties have executed a Term Sheet that, among other things, requires them to submit an agreement and class notice for the Court's preliminary approval within 30 days. The parties' jointly request an immediate stay of further proceedings in this action, including Plaintiff's pending discovery motions, until such time as the Court completes the Rule 23(e) settlement approval process.

Counsel for defendant Capital One, N.A. d/b/a Capital One Bank have reviewed this letter and consent to the relief requested herein.

Respectfully yours,  
/s/  
Joseph S. Tusa

cc: Counsel of Record (By ECF Filing)

*Long Island Office: 565 Plandome Road, Suite 212, Manhasset, NY 11030*